

28 May 2008

TAX LAWS AMENDMENT (BUDGET MEASURES) BILL 2008

Second Reading

Mr BRADBURY (Lindsay) (6.08 p.m.)—I rise in support of the Tax Laws Amendment (Budget Measures) Bill 2008. I wish to speak to a couple of elements of the bill, but first I should respond to the suggestions from those on the other side that the government has not provided the opposition with sufficient time to consider the bill. There are a couple of points to make there. The first one is that, given the inordinate delay that all of us in this House were subjected to yesterday because of the carry-on by those opposite, it is no wonder it took us a bit longer than we had anticipated to introduce the bill. So to some extent I think they have only got themselves to blame. But you will not see any of those on the other side accepting any responsibility. Accepting responsibility is something that they are not in the habit of doing.

My Labor Party predecessor in this debate, the member for Blair, indicated that there was not the same commitment to due process, transparency and the opportunity to scrutinise, debate and consider when it came to Work Choices. Whilst the member for Stirling rightly pointed out that I was not in this place prior to the recent election, I have undertaken some research and the record shows that when those on the other side were in government they made a number of changes. In fact, they tabled 337 legislative amendments to the Work Choices material and then guillotined the debate in the Senate 35 minutes later. That was the commitment to openness. That was the commitment to giving the opposition an opportunity to debate the issues.

We are not talking about a handful of, albeit important, measures that are going to impact on the lives of every person out there in this country in the way in which the Work Choices laws did. These are sensible amendments, sensible proposals, that go to instilling a greater sense of integrity into the tax system. Those on the other side are very fond of coming in here and defending the lurk and the loophole. Where there is a lurk and a loophole they will not be far off. That is why they opposed fringe benefits tax for so long. That is why it was a Labor government that was required to introduce fringe benefits tax in order to ensure that one of the most fundamental inequities in the taxation system as it then existed was addressed.

Let me give you a bit of background as to what that was all about. Those on the other side come forward without any context about what fringe benefits tax is all about. I heard the member for Cook saying, 'This is going to take away opportunities for employers to be employers of choice.' Just hold that thought, because I will come back to that point in a moment. Fringe benefits tax was introduced for a simple reason—that is, some taxpayers in collusion with their employers were engaging in a range of activities in order to derive benefits without having them subjected to any taxation. That is okay if you are in a workplace that is conducive to striking up and structuring these arrangements. And that is all right if you have the capacity to do that. But if you are the average wage and salary earner out there—the people that do not have access to taxation law advice, that do not have access to employers that are prepared to

engage people to structure deals in order to provide those benefits—then you do not get the benefit of those non-cash benefits, those benefits that previously were not subjected to taxation.

This is about bringing to account gains that are derived by taxpayers. That is a fairly fundamental principle of taxation law. If I am out there earning income derived as a result of my labour, it will be taxed through the income tax system. In the past, if a benefit was provided to me and it was not of a cash nature, on occasions there were benefits that were not subject to taxation. The FBT was introduced to attack that.

I certainly concur with the member for Stirling that the legislation is complex, but the principles are not that complex. That is why I do not believe there is any reason to delay having a debate about these issues. Both the member for Stirling and the member for Cook spoke a lot about all the contemporary political debates that we are engaged in, but they really did not speak all that much about the issues in contention in this bill.

When it comes to fringe benefits tax, let us have a look at some of those particular lurks and loopholes that have been closed. Meal cards: we have listened to those on the other side talk about the issue of cracking down on the salary sacrificing of meal cards, which are essentially a means by which an employee derives a benefit, possibly in the form of a free lunch or a long lunch. I know that those on the other side are particularly fond of long lunches. It is a shame the member for Mayo is not with us, because he will go down in this place with one of the finest reputations for being one that partakes in the long lunch. I am sure that the member for Mayo does not need any excuse for a long lunch. But perhaps one day he might take out some of his colleagues and teach them a lesson or two. He has been around in this place a little bit longer. He probably even remembers the debates that occurred when the fringe benefits tax was first introduced.

When it comes to these meal cards, the real issue is that the average wage and salary earner out there has to buy their own lunch. Many of them make their lunch and take it to work. That is a concept that might be foreign to a few people around here, but it is something that happens on a regular basis out there in the real world. You do not see the person who packs their sandwiches at home and goes to work getting any tax benefit out of the meal that they have prepared, and they have prepared it with their own labour. They have already paid tax on the dollars that bought the bread, the ham, the tomatoes and the butter. Why should someone who happens to be the beneficiary of a structured arrangement get a tax benefit?

The member for Stirling referred to class rulings. Class rulings are not applied for or developed without there being some concerted approach to at least obtain a ruling from the tax office on how a particular arrangement will apply to a class of people. That is not something that Mr and Mrs Smith from South Penrith are in a position to do. That is something that a corporation or an organisation with resources at its disposal and access to taxation lawyers or accountants is able to do. They can engage that advice and submit an application. That is why there are class rulings. But the average wage and salary owner does not have access to those benefits. So why shouldn't the people who use post-tax dollars—they have already paid their tax; in some cases they have made their own lunch; in others, they have bought their lunch—get the tax benefit that someone who salary sacrifices and uses pre-tax dollars gets? That money goes towards the purchase of their lunch, and they never paid a cent of tax on it.

The member for Cook speaks about how important it is to be an employer of choice. The member for Cook said that these particular arrangements are an attack on small business. I would like to see the range of small businesses out there that provide this sort of benefit to their employees. In fact, in my experience it is almost exclusively larger businesses that have the capacity to deliver these types of arrangements to their workforce. If you are talking about employers of choice, what you are talking about are those employers—the large businesses—getting a competitive advantage when it comes to luring and attracting workers within a highly competitive work force.

The argument that the member for Cook is putting forward needs to be turned on its head, because the reality is that what occurs out there is that the employers making themselves employers of choice are only able to do that because they have competitive advantages over their counterparts by way of being larger and thus having the resources to pay for the taxation advice necessary to obtain class rulings. Those on the other side are pretty keen to come forward and lecture us about standing up for small business. Here is your opportunity: I challenge you to come forward and support small business on this one. There are not many small businesses out there getting the benefit of this lurk.

When it comes to laptops, as the member for Blair indicated earlier, the measures that were introduced as part of the compliance measures back in 1995 were designed at a time when technology was not at the point that it is now. Back then, it was not anticipated that the sorts of benefits being provided—such as laptops—would effectively end up being largely, if not predominantly, for personal use. In fact, speakers on the other side are talking about an existing law under which individual taxpayers are able to salary sacrifice, obtain a laptop and provide it to their children. It is hardly work related. It is a benefit being provided to that taxpayer. It is a benefit that should be taxed. All the other hardworking people out there who are wage and salary earners and do not have the capacity to salary sacrifice do not get the tax break on their laptop. One of the best measures introduced in our budget is the education tax refund, which will encourage people to get some tax relief when they go and buy a laptop or a computer for their family. The issue here is that individuals, particular high-income individuals, have been salary sacrificing and obtaining laptops without paying any tax, by using their pre-tax dollars.

The other point to make about fringe benefits tax and salary sacrificing is that of its nature it favours high-income earners, because what you are doing is using pre-tax dollars. The benefit you get is greater if the tax that you have avoided paying is at a higher rate. Salary sacrificing and avoiding fringe benefits tax has a much greater impact on those who are high-income earners, so there is a real equity issue here. When you look at the fringe benefits tax proposals contained within this bill in their totality, they are designed to provide some equity. It does not matter who you are as a taxpayer, how you earn your income or who your employer is. If you receive a benefit for your employment, it should be taxed in the same way as benefits earned by the person in the business down the road. Everybody should be taxed under a similar regime. That is the equity consideration that is foremost in this legislation.

The other aspect that I want to deal with is the denial of depreciation capital allowances in terms of those benefits. This is an important point. What has occurred in the past with FBT-exempt items is that the taxpayer has had the opportunity—to the extent that the depreciating asset has been used for a taxable purpose—to claim deductions under capital allowances in respect of that asset. That allows for double dipping; tax relief at both ends: tax relief on the way to the store when acquiring the product or securing the benefit and then tax relief over the effective life of that depreciating asset. This is about avoiding an area where there has been some double dipping.

These are important measures. Most importantly, they are at the very heart of this government's commitment to deliver a \$21 billion surplus. Speakers on the other side asked the question, 'Why is this so urgent'? It is urgent because we need to not only implement the election commitments that we took to the people last November but also ensure that we secure and preserve that \$21 billion surplus. Those on the other side have all manner of plans to raid the surplus—\$8 billion would already have been squandered on the 5c a litre reduction in excise had they been over on this side. Yet, they have not identified one saving. They oppose most of our integrity measures that will raise revenue. It does not add up: \$8 billion of spending and additional items where they choose not to achieve the savings that we are achieving.

Interjection

Mr Robert interjecting—

Continue

Mr BRADBURY—The member from the other side, who no doubt will have the opportunity in a minute to lay his economic credentials bare on the table, has said that those on this side, and our economic credentials, are not up to the job of managing this economy. The only credible claim that those on the other side ever had before the Australian people as to why they should have been given an opportunity to manage this nation's finances was that, on occasions, they had actually run the economy in reasonable shape. But what we have seen, in recent years in particular, is out of control spending. It is not enough for these people to have spent all that money that they did trying to get re-elected. Now, having had the burden of government lifted from their shoulders, there are no constraints. It is a 'spendathon'. It is 'another day, another dollar' when it comes to spending. They will throw money at anything.

The reality is that the Leader of the Opposition is in such dire straits that he knows that whatever promises he makes at this point in time he will not have to deliver, because his timetable is not the next election, it is the next day, the next week—it is making sure that the shadow Treasurer behind him looking over his shoulder takes a little bit of pressure off and does not go in for the kill. I support the proposals. These are important integrity measures. Those people committed to cracking down on the lurk and the loophole will stand up to be counted on this legislation, and I have a sneaking suspicion that history will repeat itself in that regard.